REMARKS

With the entry of the present Amendment, Claims 1-14 and 42-44 remain under consideration in this application. Claims 15-40 stand withdrawn as directed to a non-elected invention. Claim 1 has been amended to specify that the "shell includ[es] at least a substantially translucent or transparent faceplate," and that "at least a portion of at least one hearing aid component located interior of the faceplate [is] tinted." Claim 10 has been amended to specify that the "shell [is] substantially translucent or transparent." New Claim 43 depends from Claim 1 and specifies that the faceplate is tinted. New Claim 44 depends from Claim 10 and specifies that the shell is tinted. Claim 41 has been cancelled, and Claims 2 and 3 have been amended to correct their dependencies. Support for these amendments can be found in the Specification at, for example, p. 22, line 15 through p. 23, line 2. No new matter has been added.

In the Office Action dated July 19, 2005, claims 1, 8, 10 and 13-14 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. 5,253,300 to Knapp ("Knapp"). Claims 2-7, 9, 11-12 and 41-42 were rejected under 35 U.S.C. § 103 as being rendered obvious by Knapp. For the following reasons, it is believed that these rejections are overcome, and that the present claims should be allowed.

As described in the present Specification at p. 22, line 15 through p. 23, line 24, for example, it is desirable to conceal a hearing aid as much as possible as there can be a stigma associated with wearing a hearing aid. This stigma may arise from the perception that those requiring hearing assistance are impaired and old. Thus, in one aspect of the invention, as recited in Claim 1, a hearing aid comprises a faceplate that is formed from a substantially translucent or transparent material. As recited in new dependent Claim 43, this material can, for example, be "tinted" with a color, such as a flesh and root beer tones. When the hearing aid is inserted into the ear canal for use, essentially only the faceplate is visible. The translucent or transparent faceplate picks up the natural color of the user's ear and helps conceal the hearing aid within the user's ear. Moreover, in the hearing aid of the invention, it is desirable to conceal the internal components of the hearing aid or to make them as inconspicuous as possible when worn by the user. Components of the microphone, receiver, circuitry, and the battery typically include shiny silver-colored metal such as stainless steel. With a substantially transparent or translucent

faceplate, these components would be easily visible and preclude making the hearing aid less conspicuous. Conventional hearing aids have not encountered this problem as the shell is typically opaque thereby completely obscuring the internal components.

Accordingly, in another aspect of Claim 1, at least one internal component of the hearing aid that is located interior of the transparent or translucent faceplate (and thus potentially visible to an observer), such as the microphone, receiver, signal processing circuitry, and battery is partially or completely tinted or colored such that the color picks up the natural tones of the skin as well as that of the translucent or transparent faceplate or shell. Tinting or coloring of the internal components, faceplate, and optionally the hearing aid shell casts shadows which further helps the hearing aid to be less conspicuous while it is worn. For example, if the translucent or transparent shell or faceplate is tinted with a flesh color, the internal component(s) can also be tinted with the same color to avoid or minimize the shiny silver-colored metal appearance. The pull cord can also be tinted or colored similar to the shell or faceplate. In alternative embodiments, only those portions which are visible when the hearing aid is worn by the user are tinted or otherwise colored.

In accordance with another aspect, as recited in independent Claim 10, the entire housing or shell of a hearing aid is formed from a substantially transparent or translucent material. This material can also be tinted, i.e., colored, as recited in new dependent Claim 44. This design is particularly advantageous in the case of more visible hearing aids, such as a behind-the-ear (BTE) type hearing aid.

The Examiner's § 102 and § 103 rejections are traversed on the ground that the cited Knapp reference fails to teach or suggest numerous limitation of the presently-amended Claims. For instance, with respect to Claim 1, Knapp does not teach or suggest a hearing aid having a shell enclosing one or more hearing aid components, where the shell includes a *substantially translucent or transparent faceplate,* and *at least a portion of at least one of the hearing aid components located interior of the faceplate is tinted.* Knapp describes a solar-powered hearing aid that includes a "casing 16" formed by a "face plate 17" and a "rear casing 18." The faceplate and the rear casing can be "flesh colored." (See col. 3, lines 29-33). In order that light passes to internal solar cells located inside the casing, it is "preferred that the faceplate 17 be translucent but not transparent or opaque." (See col. 4, lines 21-30).

In the hearing aid of present invention, by contrast, as recited in Claim 1, the faceplate can be either translucent or transparent, and in addition, *at least one of the components located interior of the faceplate is tinted.* With a substantially transparent or translucent faceplate, the components located behind the faceplate are easily visible and preclude making the hearing aid less conspicuous. Accordingly, at least one component located interior of the transparent or translucent faceplate (and thus potentially visible to an observer), such as the microphone, receiver, signal processing circuitry, and battery is partially or completely tinted or colored such that the color picks up the natural tones of the skin as well as that of the translucent or transparent faceplate or shell, and thereby makes the hearing aid less conspicuous. This problem of internal hearing aid components being conspicuously visible through a transparent or translucent faceplate is a problem that is neither recognized nor solved by the cited Knapp patent, where the sole purpose of making the faceplate translucent (though specifically *not* transparent) is to let light in to the solar cells located interior of the faceplate. There is no teaching, suggestion, or motivation within Knapp to provide the hearing aid as recited in Claim 1 of the invention. Accordingly, it is believed that Claim 1 and its dependents, Claims 2-9 and 43, are all allowable.

With respect to Claim 10, the cited Knapp reference also fails to reach or suggest a hearing aid wherein the *entire housing or shell of a hearing aid is formed from a substantially transparent or translucent material.* In fact, Knapp appears to teach away from such a design, by suggesting that the "casing" of the hearing aid "does not suffer from unsightliness due to visible exposure of solar cells, doors and the like." Thus, the implication is that the "casing 18" of the Knapp device, though it may be flesh colored, is opaque, and not translucent or transparent, to minimize the unsightliness of internal components like a solar cell. By contrast, the present invention specifies that the shell itself is made form a substantially transparent or translucent material. This material can also be tinted, i.e., colored, as recited in new dependent Claim 44, to render it even less conspicuous. This design is particularly advantageous in the case of more visible hearing aids, such as a behind-the-ear (BTE) type hearing aid.

Since the cited Knapp patent fails to teach or suggest the limitation of amended Claim 10, it is respectfully submitted that Claim 10 and its dependents, Claims 11-14, 42 and 44, are all allowable.

Double Patenting Rejections

Claims 1-14 and 42 stand rejected for obviousness-type double patenting as being unpatentable over the claims of U.S. 5,881,159 to Aceti *et al.*, and U.S. 6,473,511 to Aceti *et al.* Applicants will address these rejections upon a finding of allowable subject matter.

Supplemental Information Disclosure Statement

A Supplemental Information Disclosure Statement (IDS) is being filed concurrently herewith. Entry of the IDS is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By _____

Kevin T. Shaughnessy
Registration No. 51,014
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133
Dated: 1/14/05